

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

CHAPTER 11 (SUBCHAPTER V)

HAL LUFTIG COMPANY INC.,

CASE No. 22-11617 (JPM)

DEBTOR.

**FCP ENTERTAINMENT PARTNER'S RESPONSE TO
CONFIRMATION OF DEBTOR'S THIRD AMENDED SMALL BUSINESS
PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

COMES NOW FCP Entertainment Partners, LLC ("FCP"), by and through its counsel, LIPPES MATHIAS LLP, and pursuant to Sections 1129 and 1191 of Title 11 of the United States Code ("Bankruptcy Code"), hereby submits this response ("Response") to confirmation of the proposed Third Amended Small Business Plan of Reorganization Under Chapter 11 of the Bankruptcy Code ("Third Amended Plan") filed by the debtor, Hal Luftig Company, Inc. ("Debtor") [Docket No. 172].

Following arbitration in which FCP prevailed, on November 15, 2022, the United States District Court for the Southern District of New York approved a proposed judgment confirming an award in FCP's favor in the amount of \$2,638,925.78 ("Final Award") against both Luftig and the Debtor, jointly and severally. On January 13, 2023, over opposition submitted by both FCP and the Office of the United States Trustee, this Court entered an Order Granting Debtor's Motion Pursuant to 11 U.S.C. §§ 362(a) and 105(a): (I) to Extend the Automatic Stay to non-debtor Hal Luftig; (II) For a Temporary Restraining Order and Preliminary Injunction; (III) Setting Hearing Date; and (IV) Fixing the Form and Manner of Notice. [Adv, Pro. No. 22-01176, ECF Doc. No. 23] ("Luftig Injunction"). FCP has been unable to enforce their judgment against Luftig or the Debtor during the life of this Chapter 11 Case.

On July 25, 2024, the Debtor filed a Second Amended Small Business Plan of Reorganization Under Chapter 11 of the Bankruptcy Code “Second Amended Plan”). [ECF Doc. No. 155]. On November 15, 2024, FCP timely filed an Objection to Confirmation of the Second Amended Plan [ECF Doc. No. 170] and an accompanying Declaration of John A. Mueller, Esq. to which was attached a Rebuttal Report of Martin Platt [ECF Doc. No. 170-1] (ECF Doc. Nos. 170 and 170-1 collectively, “Objection to the Second Amended Plan”). On November 21, 2024, the Debtor filed the Third Amended Plan. The Third Amended Plan makes revisions to specific language contained in Article V as requested by the Office of the United States Trustee yet is substantially similar to the Second Amended Plan.

Specifically, as relevant here, the Third Amended Plan contains language regarding the Luftig Injunction stating that “FOR THE AVOIDANCE OF DOUBT, THE INJUNCTION OBTAINED IN ADVERSARY PROCEEDING 22-01176 APPLIES ONLY TO FCP” and that the Luftig Injunction “SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE EARLIEST OF THE TIME THE CHAPTER 11 CASE IS CLOSED, DISMISSED, OR THE DISCHARGE IS GRANTED OR DENIED.” (Third Amended Plan at 13).

FCP does not object to the confirmation of the Third Amended Plan, and consents to its confirmation pursuant to 11 U.S.C. § 1191(a), so long as FCP’s understanding that upon confirmation of the Third Amended Plan under § 1191(a) a discharge will immediately be granted pursuant to 11 U.S.C. § 1141(d)(1)(A) thus terminating the Luftig Injunction following the fourteen (14) day stay period set forth in Federal Rule of Bankruptcy Procedure 3020(e) is accurate. This termination will permit FCP to enforce the Final Award against Luftig, in his individual capacity.

However, if the above will not be the effect of the Third Amended Plan's confirmation, FCP objects to confirmation of the Third Amended Plan for all of the same reasons and on the same grounds contained within FCP's Objection to the Second Amended Plan, and FCP hereby expressly incorporates all arguments made in their Objection to the Second Amended Plan into this Response.

Dated: December 11, 2024
Buffalo, New York

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To: All parties receiving CM/ECF notice